

N. W. making about a W. course. Tacked ship several times; Kauai in sight, 50 miles off. Swan asked him to stand to the southward for a day. Asked what for. He said, "Look here, Captain, I will tell you something. I expect we will fall in with a brig from the Coast. I will give you or your men \$10, whoever sights her first." Told him he should have spoken of such business before they left Honolulu. Told Swan that if he stopped out much longer there would be a Hawaiian man-of-war after them. Still kept going south; could not help it. No wind all Saturday night and Sunday morning. Kauai in sight 52 miles off, bearing NNW. A steamer came up with them. Hove the schooner to. Dayton came on board and arrested them. (Gave evidence in regard to stores and nautical instruments). Had no idea of running away with the schooner.

The Court adjourned at 4:30 P.M. until 9 A.M. 1st prox. (to-day).

THURSDAY, 1st May, 1884.

(Barratry Case Continued.)

Henry Hanley sworn, testified that he was engaged by Mr. Colburn, one of the owners of the Kapiolani, as mate to serve on board that vessel under the orders of Captain Cook. Heard no particular place mentioned as to where the vessel was to ply. Was instructed to look around sharp for freight. Was to divide with Captain Cook one-half of what the vessel received for freight and passengers. Witness has been continuously on the Kapiolani up to the time of his arrest last Sunday morning.

The Kapiolani left Honolulu on Thursday evening. Understood she was to go to Pearl River, thence to Kauai. The wind and tide would not allow the vessel to get to Ewa. Vessel anchored off Puuloa in the night. No wind to speak of, what little there was came from N. W. Was asleep when the anchor was hove up and sail made on the vessel. Understood that Captain C. would try to make Waimea, Kauai, if possible. On Friday the vessel could not make Kauai; was to the south of Barber's Point. When witness left here had made no arrangements to run away with the vessel, and knew of no arrangements to that effect. Land was in sight on Saturday, but do not remember that any could be seen on Sunday morning. The vessel's sails were lowered because there was no wind and the vessel rolling about chafed them badly.

Captain Cook rolled on board his cask in shoals and ordered it to be stowed away. We also got one cask full of water from the schooner Gen'l Seigel. In regard to the fish hooks and lines and lot of provisions taken on board, heard on Thursday we had a passengers for Kauai.

James Swan testified that he had arranged with Capt. Cook to take him to Waimea, Kauai, in the Kapiolani. Capt. C. was to take him there and wait twenty-four hours for him in case he decided to come back with him. Was to pay \$40 for this service and agreed, as he was going to take some provisions with him, to let Capt. C. have some in case he run short.

The witness said he had a scheme in his head which he could not carry out because he did not understand navigation. Captain Cook told him if he had the proper instruments he could teach him in two or three days how to work a ship's time, etc. He, the witness, then went and purchased the quadrant and charts which had been produced in Court. Met an acquaintance once, a seafaring man who agreed to go in with him in his scheme. Capt. C. said he would not charge the witness any more for this man's passage, the witness having already agreed to pay a pretty good price (\$40 00) for his own passage. Did not pay Capt. C. the money. Went on board about dark Thursday p.m. and gave the Captain some fish hooks and lines he had bought. Went below after we got outside the harbor and remained there until early Friday morning—2 or 3 o'clock—when I went on deck and helped the Captain get up the anchor and make sail. At daylight the Captain told witness that they were about 10 miles S. of Barber's point, and that he could get to Kauai about as quick as he could get back to Oahu.

Frank Lewis called, and testified that he had made one trip in the Kapiolani with Capt. Cook in August of last year, and that on that trip Captain C. told him that if he wanted to go to the South Sea Islands with him that he could do so. He, the Captain, said that he thought of loading the Kapiolani with rice and stores, and to run away with her. Lewis declined the proposition. At the close of this last witness's testimony, Mr. Davidson for the defence asked leave to bring forward testimony to prove that in the month of August of last year—the time mentioned as being when the above proposition was said to have been made—Captain Cook was not on board the Kapiolani.

Mr. Dayton, the Deputy Marshal, stated that if the defence was permitted to re-open their case he would ask to be allowed to produce positive evidence to prove that the witness—Lewis—had made one trip with Capt. Cook, and that it was near the time set by him. Judge Bickerton finally decided to allow Messrs. Davidson and Dayton to bring their proofs forward to-morrow morning to which time the case was adjourned.

FRIDAY, May 2, 1884.

This case in which Captain Cook of the schooner Kapiolani, belonging to Messrs. Colburn and others, together with three others were charged with attempting to run away with the vessel was concluded before Police Justice Bickerton yesterday morning, and the prisoners were committed for trial.

Mr. Davidson for the defence argued that in view of the fact that the next term of the Supreme Court would not be held before July, His Honor sitting as a committing magistrate, should scan with great care the evidence, and be well satisfied that a conviction would follow upon the presenting of the case before a jury of impartial men before he committed the accused for trial. He should also take into consideration the fact that the offence charged was of so grave a nature as to necessitate the filing of a bond in case of the release of the accused on bail, as some persons were willing to become bail.

Mr. Colburn's evidence in regard to the authority conferred on Captain Cook as Captain of the Kapiolani was contradicted. Captain Cook contending that he had the right by the terms of the agreement with Mr. Colburn to take cargo to any point where it might be profitable to do so. Colburn had stated that the vessel was not to leave port without his consent, nor carry freight to any point without his approval. Captain Cook and the mate Hanley testify that there was no restriction in the agreement. Cook was to use his own discretion, and make the most money he could. The learned gentleman argued that as Captain Cook's compensation depended upon the receipts of the vessel his evidence with that of the mate's was supported by reason.

Colburn had testified in regard to the nautical instruments, that they were on board without his knowledge and consent, and that he would not permit any such instruments on any vessel he had an interest in. This the counsel said savored of barbarism. In the olden times a passenger asking a captain of a sailing vessel anything in reference to the latitude or longitude of the vessel would probably be informed that "land lubbers" had nothing to do with that. Now-a-days however the rule is to post in a conspicuous place the result of each midday's observations. Passengers now were no longer suspected of piratical intentions.

Captain Cook's testimony, supported by Hanlon and Swan was to the effect that finding it impossible to enter Ewa harbor on Thursday night, the anchor was raised and a course was shaped for Kauai. The winds were light and baffling, the currents strong to the south; the sea, at times rough, and the vessels' sails old and rotten; and to prevent them from being torn from the ropes they were lowered at various times and only kept up when there was wind enough to fill them. His testimony also showed that on Sunday morning, when the Kapiolani was approached by the steamer C. R. Bishop, she was in the position where the wind and currents had carried her.

The presence of the nautical instruments on board was fully accounted for by the evidence of Mr. Swan, who testified to having purchased them himself for the purpose of learning navigation which Captain Cook had promised to teach him. The prosecution (it was contended) must rest entirely upon the assumption that men intend to commit a crime when the slightest circumstances that favor such an object unfortunately exist. In this case there was nothing to indicate a felonious intent and the prisoners should be discharged.

The Crown Prosecutor rehearsed Captain Cook's story about reaching Puuloa in four hours with light N. W. winds, and argued that it could not be true. In reference to the locality of the Kapiolani on Sunday morning as described by Captain Cook, it was shown that he was very much out in his statements although it was proved that he had worked the schooner's position on Saturday correctly enough. When found the Kapiolani was about 110 miles S. S. E. from Kauai and out of sight of land, while Cook had placed her in his testimony only 54 miles distant.

It had been proven that the alleged passenger Swan had bought a barrel of beef and that Captain Cook had directed it be marked "Ah Sam, Ewa," so as not to excite suspicion. This in itself was a suspicious circumstance as there would seem to be no reason for concealment in the matter if the voyage contemplated was intended to be a legitimate one. The Captain's book showed freight for Ewa only, while there was quite a list of provisions on board not belonging to the vessel, and not on the freight book.

It had been shown that orders had been given to the Captain not to sail before the next (Friday) morning, and these orders had been disobeyed. The two alleged passengers, the Captain, and the mate were not strangers to each other, but had been associated together before in one way or another.

It was urged that when Captain Cook lifted his anchor from Ewa he committed a felony as he then intended taking the vessel where he was not authorized to, and His Honor, the Police Magistrate was asked to commit him and his associates for trial.

His Honor the Police Justice addressed the prisoners:

This was a most serious charge, and one beyond his jurisdiction to finally decide, and there was, in his opinion, good evidence brought forward by the prosecution for com-

mitting them—the accused, for trial before a jury. In reviewing the testimony he was of the opinion that there was no question at all but that it was the intention of Captain Cook to take the vessel to Kauai. This was his intention of Thursday afternoon, before leaving Honolulu, and still he did not communicate that intention to the vessel's owner Mr. Colburn. Mr. Colburn's evidence showed that he had given orders for the vessel not to leave until towards morning. It was peculiar, to say the least, that Captain Cook should not have mentioned to Mr. Colburn his having had an offer of \$10 passage money for carrying a passenger to Kauai, or of his intention to go to that island. Another point His Honor thought was strange, that was, that with a light wind blowing (and that wind not a fair one either) the Kapiolani could make out to get to Pearl River in something less than four hours. Unless he was mistaken it took the light steam vessel that occasionally ran down there rather more time than that to make the trip.

Again: Suppose a quick run was made to Puuloa and the vessel anchored—it being night,—off the mouth of the harbor in five fathoms of water, it seemed strange that the anchor was lifted in a calm. There was no danger, no wind and he failed to see their object in moving.

In conclusion His Honor said that he did not think he would be doing his duty if he allowed the accused to go at large. He therefore committed them for trial at the next term of the Supreme Court.

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(Continued from page 5.)

Mr. Keau gave notice of a Bill to increase the powers of the Commissioners of water-rights and right-of-way.

Mr. Hitchcock moved that the Minister of Finance be requested to explain the discrepancy in an item in the Finance Committee's report and the printed report of the Minister of Finance. Carried.

Mr. Nawahi moved that the Sergeant-at-arms be instructed to furnish the Assembly with *Gazette*, *Weekly Pacific Advertiser*, *Saturday Press*, *Kuokoa*, *Elele Poakolu*, *Pae Aina*, *Daily Pacific Advertiser*, *Bulletin*, and *Pae Aina*.

Mr. Cecil Brown moved the indefinite postponement of this resolution.

Mr. Kaulukou also opposed the motion. He added that all these papers had been liberally supplied gratis and he had no doubt but they would continue to be so supplied. He asked what return the House got for the honored position that was held by the reporters. They were allowed to have prominent seats in the Assembly, and in return he thought they ought to supply their papers gratis.

Mr. J. Richardson said that he had promised his constituents to keep the expenses of the House down, and it was very evident that there would be a large expense incurred by having to pay for this rubbish (the papers.)

Mr. Nawahi, the introducer of this resolution, said that if a man does not eat, his body will suffer. He asked was it not by reading the newspapers that merchants gained their information about what was going on in the world? If the Members wished to reduce expenses they better not have any writing paper, ink or books.

Mr. Smith pointed out that the House did not publish any printed report of their deliberations, and therefore it was necessary that they should read the papers and know what was published in regard to this Assembly. He was averse to the House purchasing penknives, paying for lunches and drives to the park, but he was in favor of the resolution. The expense of newspapers was very small compared with other expenses.

Mr. Palohau said he liked newspapers but they cost too much. He was a little surprised that the resolution should emanate from the member for Hilo, who generally objected to everything on principle. If he wanted a paper he could pay for it. English newspapers were of no use to him; he only rolled them up and carried them home. He was therefore in favor of the indefinite postponement of the resolution.

Mr. Kalua spoke against the resolution.

Mr. Nawahi remarked that after what had been said he hoped they would not ask the House to pay for any more carriages. He withdrew his motion.

The Minister of Finance replied to the resolution regarding Hawaiian currency by presenting a copy of the resolution that had been adopted by the Privy Council.

The report was adopted.

At 0:10 P. M. the House took a recess until 1 P. M.

On re-assembling the Attorney-General, under suspension of the rules, presented his report for the biennial period. Ordered

to be laid on the table and to be translated and printed.

Mr. Smith read for the first time a bill to amend Chapter 34 of the Session Laws of 1882, "to provide for the suppression of disease among animals in the Hawaiian Kingdom." Read a second time by its title and referred to the Judiciary Committee.

Mr. Kalua introduced a joint resolution that whereas this Assembly is without a translator, be it resolved that Mr. W. L. Wilcox be appointed translator. Carried.

Mr. Dole moved that \$10,000 be appropriated for a general hospital at Lihue, Kauai. Referred to Sanitary Committee.

Mr. Dole moved that the Ministers be requested to state their policy on the subject of Portuguese and other immigration.

Mr. Cecil Brown moved that \$3,000 be appropriated for a Courthouse and lockup at Koolauloa. Laid on the table to be considered with the Appropriation Bill.

Mr. Kaulukou moved that \$2,000 be appropriated for improving the road at Kalihi known as the Kamehameha road. Laid on the table to be considered with Appropriation Bill.

The Minister of Foreign Affairs asked leave to make a reply to the resolution just offered by the member for Lihue. A statement in reference to the resolution would shortly be forthcoming. He begged to inform the House that he had prepared a report for their approval which embraced in it the views and policy of the Government on the subject. It was now in the hands of the printer. On Saturday or Monday he would be able to place it before the Assembly. If the House would accept the explanation he would defer his reply until the report was ready when he thought the resolution would be fully answered.

The explanation was accepted.

Mr. Pilipo moved that \$2,500 be appropriated for improving the road between Kailua and Huehue, North Kona, Hawaii. Laid on the table.

Mr. Palohau gave notice of his intention to introduce a bill to provide that in cases where employers pay the taxes of employees they shall hand over the receipts to the employees instead of retaining them.

Mr. Frank Brown gave notice of his intention to introduce a bill relating to the observance of Sundays.

Mr. Gardner moved that \$1,000 be appropriated for a wharf at Kipahulu, Maui. Laid on the table.

Mr. Cecil Brown gave notice of his intention to introduce a bill relating to turkeys and other fowls running wild in this Kingdom.

Mr. Nahinu moved that \$2,000 be appropriated for improving the Government road in the district of South Kona, Hawaii. Laid on the table.

Mr. Kupihea moved that \$4,000 be appropriated for a wharf at Pukoo, Molokai. Laid on table.

Mr. Lilikalani read for the first time a Bill to regulate the importation, manufacture and sale of opium.

Mr. Pilipo moved the Bill be rejected.

Mr. Smith hoped the Assembly would not reject it as it was really an important Bill. He said it may be a question of grave doubt whether it is better to continue the law as it is, or change it. He moved that it pass to its second reading.

The Attorney-General said he was in favor of the Bill, but considered it should be amended in some particulars. He thought it better to refer it to the Judiciary Committee.

Read a second time by its title and referred to the Judiciary Committee.

Mr. Cecil Brown moved that \$1,000 be voted by the House to pay for criminal prosecutions until the passage of the Appropriation Bill.

On it being pointed out that such a motion was irregular it was withdrawn.

Mr. Frank Brown moved that \$1,000 be appropriated for re-erecting the Waiawa bridge at Ewa. Laid on the table.

Mr. Nakaleka moved that \$3,000 be appropriated for a wharf in the harbor of Kaunakakai, Molokai. Laid on the table.

Mr. Kalua moved that \$10,000 be appropriated for improving the road from Koolaupeke to Waimanalo and Koolauloa.

Mr. Kawila moved that \$2,000 be appropriated for a wharf at Puna, Hawaii. Laid on table.

Mr. Palohau gave notice of a Bill to authorize tax assessors to collect taxes from Chinese wherever found wandering about the Kingdom.

Mr. Kaunamau moved that the Commission appoint to codify the laws be instructed to complete the work within two months, and that each member be furnished with copies in English and Hawaiian.

Mr. Cecil Brown gave notice in due form of a joint resolution to provide for

the \$1,000 required for criminal prosecutions.

Mr. Ahelo moved the order of the day. Mr. Nawahi moved that \$500,000 be appropriated for a railroad from Hilo to the Hamakua district. Referred to the Committee on Public Lands and Internal Improvement.

At 2:40 P.M. the House adjourned until 10 A.M. to-morrow (Friday.)

SIXTH DAY.

FRIDAY, May 2nd, 1884.

The House assembled at 10 A.M. The minutes of the previous day's proceedings were read and confirmed.

PETITIONS.

Mr. Kamakele presented a petition from Makawao, bearing 133 signatures, praying that \$2,000 be appropriated for improving the road at Oopuola on the island of Maui. Referred to Committee on Public Lands and Internal Improvements.

Mr. Ahelo presented a petition from Lahaina praying that the House pass a law authorizing the compilation of a Hawaiian and English dictionary. Referred to Committee on Education.

Mr. Amara presented a petition from Waialua praying that \$10,000 be appropriated for roads and bridges in the district of Waialua, Oahu; also that certain lands in Waimea, be included in the district of Waialua. Laid on the table to be considered with the Appropriation Bill.

Mr. Keau presented a petition from Honolulu praying that \$2,500 be appropriated for opening a road through Kapunohu. Also that \$5,000 be appropriated to defray the claims of the property owners in said district. Referred to Committee on Public Lands and Internal Improvements.

Mr. Kaulukou presented a petition from some residents in Kalihi, praying that \$7,500 be appropriated for a road in Kalihi Valley. Referred to same Committee as above.

RESOLUTIONS.

Mr. Kalua moved that the Board of Genealogy present a report to the Assembly.

Mr. Pilipo proposed as an amendment that the report be presented within two weeks. Carried.

Mr. Kalua moved that the Minister of the Interior be requested to provide each member with a copy of the Session Laws of 1882 in English and Hawaiian. Carried.

Mr. Dole moved that the Commissioners of Crown Lands be requested to state to the Assembly within 10 days the income of the Crown Lands since last session. Carried.

Mr. Gardner moved that \$5,000 be appropriated for improving the Pali roads from Kahanui to Oopuola in the district of Hana, Maui. Referred to Committee on Public Lands and Internal Improvements.

Mr. Cecil Brown read for the first time a bill to provide for \$1,000 requested for criminal prosecutions until the Appropriation bill has passed.

On suspension of the rules, the bill was read a second time, passed to engrossment and ordered to be read a third time to-morrow (Saturday.)

Mr. Dole gave notice of his intention to introduce a bill to amend Section 8, Chapter 79 of the Penal Code, relating to the registry of births, deaths and marriages.

Mr. Nawahi gave notice of his intention to introduce a bill to prevent the introduction of explosives into the Kingdom.

Mr. Gardner moved that \$800 be appropriated for the building of a wharf at Kaenani. Laid on the table.

Mr. Nahinu moved that \$1,000 be appropriated for the building of a Court House and lock-up at South Kona. Laid on table.

Mr. Kaulukou gave notice of his intention to introduce a bill, in consequence of so many resolutions, and petitions having been presented, providing for a national loan of \$8,000,000 (1) for the laying of telegraph wires from the Islands to the United States; (2) railroad in the District of Hilo; (3) inter-island telegraph wires.

Mr. Pilipo moved that \$1,000 be appropriated for the building of Court House and lock-up in North Kona. Laid on the table.

Mr. Rowell moved that the following items be inserted in the appropriation bill: (1) \$1,800 for a breakwater at Waimea; (2) \$500 for completing the road that approaches to the new bridge across the Waimea stream; (3) \$3,000 for improving the Government road from Mana to Hanapepe, on the island of Kauai. Also \$1,000 for roads on the island of Niihau. Referred to Committee on Public Lands and Internal Improvements.

Mr. Pilipo moved the order of the day.

Mr. Ahelo moved that the House adjourn until 10 A. M. to-morrow (Saturday). Carried.

The House adjourned at 11:30 A. M.

[During the above session the House took a recess of half an hour in order to witness the parade of the fire department, that passed through the Government House grounds a few minutes before 11 o'clock.]